

### REMARKS

Claims in the case are 1, 3, 5 and 6. Claim 1 has been herein to replace "consisting essentially of" with —consisting of—. Entry of the present amendment is respectfully requested as it is deemed to place the claims in condition for allowance.

Claims 1, 3, 5 and 6 stand rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent No. 4,376,834 (Goldwasser et al). In light of the amendments herein and the following remarks, this rejection is respectfully traversed.

Goldwasser et al disclose polyurethane resins prepared from organic polyisocyanates, polyols (e.g., polytetramethylene glycol), and one or more low molecular weight extenders (e.g., 1,4-butanediol). See the abstract; column 6, line 56; column 8, lines 3-33; and column 9, lines 13-23 of Goldwasser et al. Goldwasser et al's recitation of low molecular weight extenders does not include p,p'-di(2-hydroxyethyl)hydroquinone (column 8, lines 3-33; and column 9, lines 13-23).

Goldwasser et al disclose a polyurethane resin prepared from a composition that includes: 4,4'-methylenebis(phenyl isocyanate); polytetramethylene glycol; 1,4-butanediol; and p,p'-di(2-hydroxyethyl)hydroquinone (Example 6-5, Table 1, columns 14 and 15). However, Goldwasser et al do not disclose a composition that includes p,p'-di(2-hydroxyethyl)hydroquinone in the absence of a low molecular weight extender, such as 1,4-butanediol. In particular, Goldwasser et al do not disclose the preparation of a polyurethane elastomer from a composition that consists of: at least one polyether diol having a number average molecular weight (Mn) of 450 to 10,000 and, on average, 1.8 to 2.2 Zerewitinoff active hydrogen atoms; with at least one organic diisocyanate; and 1,4-di-(2,2'-hydroxyethyl)-hydroquinone.

In light of the amendments herein and the preceding remarks, Applicants' claims are deemed to be unanticipated by and patentable over Goldwasser et al. Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1, 3, 5 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Goldwasser et al. This rejection is respectfully traversed with regard to the amendments herein and the following remarks.

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As discussed previously herein, Goldwasser et al disclose polyurethane resins prepared from organic polyisocyanates, polyols (e.g., polytetramethylene glycol), and one or more low molecular weight extenders (e.g., 1,4-butanediol). Goldwasser et al's recitation of low molecular weight extenders does not include p,p'-di(2-hydroxyethyl)hydroquinone (column 8, lines 3-33; and column 9, lines 13-23).

Goldwasser et al disclose polyurethane resins prepared from: 4,4'-methylenebis(phenyl isocyanate); polytetramethylene glycol; 1,4-butanediol; and p,p'-di(2-hydroxyethyl)hydroquinone (Example 6-5, Table 1, columns 14 and 15). However, Goldwasser et al do not disclose, teach or suggest the preparation of polyurethane resins from a composition that includes p,p'-di(2-hydroxyethyl)hydroquinone in the absence of a low molecular weight extender, such as 1,4-butanediol. In particular, Goldwasser et al do not disclose, teach or suggest the preparation of a polyurethane elastomer from a composition that consists of: at least one polyether diol having a number average molecular weight (Mn) of 450 to 10,000 and, on average, 1.8 to 2.2 Zerewitinoff active hydrogen atoms; at least one organic diisocyanate; and 1,4-di-(2,2'-hydroxyethyl)-hydroquinone.

In light of the amendments herein and the preceding remarks, Applicants' claims are deemed to be unobvious and patentable over Goldwasser et al. Reconsideration and withdrawal of this rejection is respectfully requested.

Claims 1, 3, 5, and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 6,022,939 (Pudleiner et al). This rejection is respectfully traversed in light of the amendments herein and the following remarks.

Pudleiner et al disclose a thermoplastic polyurethane prepared from: (A) diisocyanates; (B) polyhydroxy compounds (e.g., polyether polyols); and (C) a chain extender that includes (C1) benzene substituted with at least two hydroxyalkyl groups, e.g., 1,4-bis(2-hydroxyethoxy)benzene, and (C2) an alkanediol with 4 to 44 carbon atoms. See the abstract; column 3, lines 28-45; and column 4, line 25 of Pudleiner et al.

Pudleiner et al does not disclose, teach or suggest preparing their thermoplastic polyurethane in the absence of component (C3) an alkanediol with 4 to 44 carbon atoms. Applicants' Claim 1 has been amended herein to include closed-end transitional language which serves to exclude other components, such as alkanediols with 4 to 44 carbon atoms.

Regarding the comments in paragraph 6 on page 4 of the Office Action of 18 March 2003, Applicants respectfully submit that Examiner's assumptions do not constitute the disclosure of prior art. See In re Rijckaert, 28 U.S.P.Q.2d 1955 (CAFC 1993) wherein the Court of Appeals, Federal Circuit stated:

In rejecting claims under 35 U.S.C. §103, the examiner bears the initial burden of presenting a *prima facie* case of obviousness ... "A *prima facie* case of obviousness is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art ... If the examiner fails to establish a *prima facie* case, the rejection is improper and will be overturned. Id. at 1956. "Rijckaert argues that the examiner has not established a *prima facie* case of obviousness and that the examiner's assumptions do not constitute the disclosure of prior art. We agree." Id.


In light of the amendments herein and the preceding remarks, Applicants' claims are deemed to be unobvious and patentable over Pudleiner et al. Reconsideration and withdrawal of this rejection is respectfully requested.

In light of the amendments herein and the preceding remarks, Applicants' presently pending claims are deemed to define an invention that is unanticipated, unobvious and hence, patentable. Reconsideration of the rejections and allowance of all of the presently pending claims is respectfully requested.

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